

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ASHTON PLASTIC PRODUCTS, INC. : Case No.: C-1-02-529

Plaintiff, : Judge Dlott
vs. : Magistrate Judge Sherman

FUSITE CORPORATION,

Defendant.

PLAINTIFF ASHTON PLASTICS PRODUCTS, INC.'S
RESPONSE TO COURT ORDER

On July 29, 2004, this Court vacated the dismissal of this case without prejudice, and ordered Plaintiff to respond to Defendant's summary judgment motion or face dismissal with prejudice. Unfortunately, the situation that led to Plaintiff's seeking dismissal of this matter has not changed. Defendant's actions have financially injured Plaintiff to the point where it is not feasible to continue with the litigation. Plaintiff firmly believes its case is meritorious and that, in contrast, Defendant's motion for summary judgment is without merit. However, continuing the summary judgment process would be a waste of time for Plaintiff, for Defendant and, most importantly, for this Court, because Plaintiff is not in a position to go forward even with a successful outcome.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Plaintiff Ashton Plastic Product Inc.'s Memorandum in Opposition to Defendant Fusite Corporation's Motion to Amend or Vacate the Court's Order Granting Plaintiff's Motion for Voluntary Dismissal Without Prejudice* have been served upon the following persons by electronic means using the court's CM/ECF system if available, by facsimile, or by ordinary United States mail, postage prepaid, this 24th day of August, 2004.

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